

REMARKS

The present response is filed with a Request for Continued Examination, and is to the Office Action mailed in the above-referenced case on October 11, 2005, made Final. Claims 1-35 are presented for examination. The Examiner has maintained the rejection of claims 1-35 under 35 U.S.C. 103(a) as being unpatentable over Simons et al. (US 6,332,198) hereinafter Simons, in view of Zadikian et al. (US 6,724,757) hereinafter Zadikian. The Examiner also maintains the rejection of claims 1-35 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

In response, applicant herein slightly amends the claims to overcome the 112 rejection, and further to specifically recite consistent switchover within a 50 millisecond timeframe. Applicant provides further arguments to overcome the rejections of the claims on their merits. Applicant's arguments will clearly distinguish applicant's patentable subject matter over the combined teachings of Simons and Zadikan.

Regarding the 112 rejection, the Examiner states that the specification fails to describe limitations in claims 1, 12 and 24 "that all application-dependent data resides locally in **kernel software** of individual APS modules". Applicant's specification clearly describes that instances of APS software 209 are provided one on ADM 104 and one on ADM 105. Applicant amends the claims to remove "kernel" from the phrase "kernel software to overcome the rejection.

In response to applicant's previous argument that Simons fails to disclose that information and communication required to facilitate true APS is not stored locally, the Examiner has stated in the Response to Arguments section of the instant Office Action, that Simons clearly discloses a modular software architecture, and therefore software intelligence is stored locally. Applicant disagrees that this teaching obviates applicant's specific claim language as amended, which now specifically recites that "all application-dependent data resides locally in software of each individual APS module". Simons teaches that all application-dependent data resides in **memory 40** and **not** in software of **each individual APS module** (col. 19, lines 32-37). Applicant stresses that because in Simons, information and communication needed to facilitate true APS is not stored

locally in software of each individual APS module, as in applicant's invention and claims, the 50 millisecond time frames could not be consistently accomplished, as is now specifically recited in applicant's claims. Applicant therefore strongly maintains that Simon suffers from network data flow interruption because true APS is not accomplished. In applicant's invention each instance of APS CL is identical in capability to every other instance. The same is true with instances of IFMC (P. 14, line 26 to p. 15, line 10).

The Examiner retains the art of Zadikian to teach a 50 millisecond switchover, stating that Zadikian teaches a network element capable of performing routing functions that support simple provisioning and fast restoration (50ms). Applicant argues that what Zadikian actually discloses is that the scheme allows the line cards to select between the two copies of the group matrix without CPU intervention, which helps ensure not consistently, as in applicant's claims as amended, achieves or supports 50-millisecond switchover.

Further, Zadikian facilitates switchover from a main processor, and neither of the software intelligence or application dependant data is stored locally, that is in each individual APS module, as is taught in applicant's invention and claims as amended. Therefore, applicant strongly believes that the fact that Zadikian's scheme helps ensure (not consistently achieves or supports) 50-millisecond switchover in a single processor implementation, it certainly would not obviate a 50-millisecond switchover in a distributed processor environment as taught in Simons. Simply because the Examiner has produced art teaching that a 50-ms switchover exists (in questionable analogous art) does not teach or suggest consistent 50ms switchover in a distributed processing system, as taught in applicant's invention and claims as amended. Simply because the ability may exist, does not mean that it is obvious or even possible to implement a consistent switchover within a 50 milliseconds timeframe.

Applicant therefore believes that claims 1, 12 and 24 as amended and argued by applicant are now clearly and unarguably patentable over the art of Simon and Zadikian, either singly or combined. Claims 2-11, 13-23, and 25-35 are then patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims as amended and argued are clearly shown to be patentable over the prior art, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue. If any fees are due beyond fees paid with this response, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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